

## CHAPTER 2:01:12

### COMPUTER VOICE STRESS ANALYZER EXAMINER LICENSING

#### Section

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**2:01:12:01. Definitions.** Terms used in this chapter are defined as follows:

(1) "Commission," a committee composed of ten members including three ex officio members named and appointed pursuant to SDCL 23-3-28 and 23-3-30;

(2) "Executive secretary," an agent of the division of criminal investigation appointed by the commission to serve as executive secretary to the commission;

(3) "Computer Voice Stress Analyzer" or "CVSA," an instrument that detects, measures, and displays changes in voice frequency, which can be recorded permanently and simultaneously;

(4) "CVSA Examiner," a person who uses a Computer Voice Stress Analyzer to question individuals for the purpose of detecting deception.

**Source:** 31 SDR 94, effective January 4, 2005.

**General Authority:** SDCL 23-3-35(13).

**Law Implemented:** SDCL 23-3-35.3.

**2:01:12:02. Additional licensing requirements.** In addition to the licensing requirements in SDCL 23-3-35.3, a person must be at least 21 years of age to receive a license as a CVSA examiner. The study requirements in SDCL 23-3-35.3(2) must be completed at a school or program approved by the executive secretary. An applicant may not previously have had an examiner's license or its equivalent refused, revoked, suspended, or otherwise invalidated for any of the grounds listed in these rules. An applicant may not previously have had certification as a law enforcement officer refused, revoked, suspended, or otherwise invalidated for any of the grounds listed in chapter 2:01:11.

**Source:** 31 SDR 94, effective January 4, 2005.

**General Authority:** SDCL 23-3-35(13).

**Law Implemented:** SDCL 23-3-35.3.

**2:01:12:03. License renewal or transfer.** An examiner's license is for a term of three years. The license expires on December 31 of the last year that is not more than three years after its issuance.

The license may be renewed upon payment of the required fee of \$75. A license issued pursuant to this chapter is not assignable or transferable.

**Source:** 31 SDR 94, effective January 4, 2005.

**General Authority:** SDCL 23-3-35(13).

**Law Implemented:** SDCL 23-3-35.3.

**2:01:12:04. Reciprocity.** An applicant who is a licensed CVSA examiner in another state or territory of the United States may be issued a license if he meets the following requirements:

(1) The requirements for a CVSA examiner in the other state or territory are substantially equivalent to the requirements of SDCL chapter 23-3 and this chapter;

(2) The applicant has engaged in the administration of truth and deception examinations under the laws of the other state or territory for at least six months prior to the application for license;

(3) The other state or territory grants similar reciprocity to the license holders of this state;

(4) The applicant has paid the required \$75 fee.

**Source:** 31 SDR 94, effective January 4, 2005.

**General Authority:** SDCL 23-3-35(13).

**Law Implemented:** SDCL 23-3-35.3.

**2:01:12:05. Reasons for denial, suspension, or revocation of license.** The commission may deny, suspend, or revoke a license for any one or more of the following grounds after a hearing held in accordance with chapter 2:01:04:

(1) Failure to inform a subject to be examined of the nature of the examination;

(2) Failure to inform a subject to be examined that participation is voluntary;

(3) Asking questions during a CVSA examination regarding the examinee's sexual practices; labor union, political, or religious affiliations; or marital relationship, except when such questions have a bearing on the areas or issues under examination;

(4) Material misstatement in the application for the original license or in the application for a renewal of the license;

(5) Willfully making a false report concerning a CVSA examination;

(6) Conviction of a felony or of a crime involving moral turpitude, including, but not limited to, dishonesty, fraud, or unauthorized divulging or selling of information or evidence;

(7) Making a willful misrepresentation or false promise or causing to be printed a false or misleading advertisement for the purpose of directly or indirectly obtaining business;

(8) Having demonstrated incompetence to act as a CVSA examiner;

(9) Allowing a license under this act to be used by an unlicensed person;

(10) Willfully aiding or abetting another in the violation of SDCL chapter 23-3 or this chapter;

(11) Adjudication of mental illness;

(12) Failure to provide information requested by the executive secretary as a result of a formal complaint in writing to the executive secretary or as a result of substantive information otherwise received by him which would indicate a violation of SDCL chapter 23-3 or this chapter;

(13) Failing to inform the subject of the results of the examination if so required; or

(14) Willful disregard or violation of any of the provisions of SDCL chapter 23-3 or this chapter.

**Source:** 31 SDR 94, effective January 4, 2005.

**General Authority:** SDCL 23-3-35(13).

**Law Implemented:** SDCL 23-3-35.3.

**2:01:12:06. Period of license suspension or revocation.** If a license is suspended, it shall be suspended for a definite period of time, but not more than two years. If a license is revoked, it shall be revoked for not less than two years. A person who has had his license revoked for cause may apply to the commission for reinstatement two years after the license was revoked.

**Source:** 31 SDR 94, effective January 4, 2005.

**General Authority:** SDCL 23-3-35(13).

**Law Implemented:** SDCL 23-3-35.3.

**2:01:12:07. Surrender of license.** The licensee shall surrender a revoked or suspended license to the executive secretary within 30 days after notice of revocation or suspension. If the licensee fails to do so, the executive secretary may seize the license.

**Source:** 31 SDR 94, effective January 4, 2005.

**General Authority:** SDCL 23-3-35(13).

**Law Implemented:** SDCL 23-3-35.3.

**2:01:12:08. Nonresident court compliance.** An applicant for a license under SDCL chapter 23-3 who is a nonresident of this state shall file a consent with the executive secretary stating that suits and actions may be commenced against the applicant in the proper court of any county of this state by service of process on the executive secretary. The nonresident applicant shall stipulate in the consent that service of process on the executive secretary shall be taken in all courts as valid and binding as if service has been made upon the applicant himself in the state. A duplicate of the process served on the executive secretary shall be immediately forwarded by registered mail to the main office of the applicant against whom the process is directed.

**Source:** 31 SDR 94, effective January 4, 2005.

**General Authority:** SDCL 23-3-35(13).

**Law Implemented:** SDCL 23-3-35.3.